

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JAMES A. SMITH,

Petitioner,

v.

GREGORY GRAMS,

Respondent.,

ORDER

06-cv-375-jcs¹

Petitioner James A. Smith filed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging his 1994 Milwaukee County Circuit Court conviction for armed robbery. Judge John C. Shabaz dismissed the petition with prejudice on March 28, 2007. On May 15, 2009, the United States Court of Appeals for the Seventh Circuit reversed Judge Shabaz's decision and remanded the case with instructions to grant the petitioner's petition for a writ of habeas corpus. Therefore, I am granting petitioner's petition.

¹Because Judge Shabaz is on medical leave, I am assuming jurisdiction over this case.

ORDER

IT IS ORDERED that petitioner James A. Smith's petition for a writ of habeas corpus under 28 U.S.C. § 2254 is GRANTED. If the State elects not to retry petitioner within 120 days, he shall be released from confinement.

Entered this 11th day of June, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge